

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE AMALGAMATED  
INDUSTRIAL and TOY & NOVELTY  
WORKERS OF AMERICA, LOCAL 223 - SICK  
BENEFIT FUND, PENSION FUND and LOCAL  
223 HARRY O. DAMINO SCHOLARSHIP  
FUND,

**MEMORANDUM AND ORDER**

Case No. 10-CV-3399 (FB) (VVP)

Plaintiffs,

-against-

SURPRISE PLASTICS, INC.,

Defendant.

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*Appearances:*

*For the Plaintiff:*

DANIELLE MARLENE CARNEY, ESQ.

Barnes, Iaccarino & Shepherd, LLP

3 Surrey Lane

Hempstead, New York 11550

**BLOCK, Senior District Judge:**

On September 2, 2011, Magistrate Judge Pohorelsky issued a Report and Recommendation ("R&R") recommending that the Court award default judgment against defendant in the total amount of \$73,530.37, consisting of \$51,941.26 in unpaid contributions, \$8,206.56 in interest through August 31, 2011 plus \$17.31 per day thereafter to the date of judgment, \$10,388.25 in liquidated damages and \$2,475 in attorney's fees and costs. *See* R&R at 9. The R&R also stated that defendants' failure to object within fourteen days of receiving the R&R would preclude appellate review. *See id.* According to the docket, plaintiff's attorney mailed a copy of the R&R to defendant on September 7, 2011.

To date, no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. See *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, see *Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

**SO ORDERED.**

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FREDERIC BLOCK  
Senior United States District Judge

Brooklyn, NY  
September 27, 2011